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A/45/390
S/21456
7 August 1990

ORIGINAL: ENGLISH

GENERAL ASSEMBLY
Forty-fifth session
Item 35 of the provisional agenda*
THE SITUATION IN THE MIDDLE EAST

SECURITY COUNCIL
Forty-fifth year

Letter dated 6 August 1990 from the Permanent Representative of Maldives to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith the press release issued on 4 August 1990 by the Ministry of Foreign Affairs of the Republic of Maldives (see annex).

I should be grateful if you would arrange to have the present letter and its annex circulated as an official document of the General Assembly, under item 35 of the provisional agenda, and of the Security Council.

(Signed) Hussein MANIKFAN
Ambassador
Permanent Representative

* A/45/150 and Corr.1.

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ANNEX

Press release issued on 4 August 1990 by the Ministry of Foreign Affairs of Maldives

The Government of the Republic of Maldives is deeply concerned over the critical developments in the Gulf in the wake of the Iraqi armed intervention in Kuwait. As a matter of principle the Maldives has always opposed all acts of intervention and interference by States in the internal affairs of other States, and the use of force in the settlement of disputes. It is regrettable that the Maldives has to express a view against a country with whom it enjoys extremely good relations. The Government of the Republic of Maldives urges the Iraqi Government to respond positively to the call of the Security Council and the international community and immediately and unconditionally to withdraw its troops from Kuwait allowing the people of Kuwait to restore normalcy in their country. Furthermore, the Government of the Republic of Maldives calls upon Iraq to settle the dispute through peaceful means.

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7 August 1990
ENGLISH
ORIGINAL: SPANISH

LETTER DATED 7 AUGUST 1990 FROM THE PERMANENT REPRESENTATIVE OF NICARAGUA TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

I have the honour to enclose the text of the press release issued by the Ministry for Foreign Affairs of the Republic of Nicaragua on 3 August 1990, concerning the situation between Iraq and Kuwait.

I should be grateful if you would have the text of this letter and its annex circulated as a document of the Security Council.

(Signed) Roberto MAYORGA CORTES
Ambassador
Permanent Representative

Annex

Press release dated 3 August 1990 issued by the Ministry of External Relations of Nicaragua on the situation between Iraq and Kuwait

The Ministry for Foreign Affairs of the Republic of Nicaragua, deeply concerned at the recent events in the Middle East region, hereby informs the people of Nicaragua and the international community of the following:

The Government of Nicaragua deeply regrets the outbreak of hostilities between the peoples of Iraq and Kuwait, and in particular the violation of the territorial integrity and sovereignty of the State of Kuwait.

The Government of Nicaragua expresses its strongest rejection and condemnation of the use of force for the settlement of disputes, and urgently appeals for the cessation of the aggression and the immediate withdrawal of the troops occupying Kuwaiti territory.

Done at Managua City on the third day of the month of August in the year one thousand nine hundred and ninety.

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MINISTRY FOR FOREIGN AFFAIRS

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GENERAL ASSEMBLY
Forty-fifth session
Item 35 of the provisional agenda*
THE SITUATION IN THE MIDDLE EAST

SECURITY COUNCIL
Forty-fifth year

Letter dated 7 August 1990 from the Chargé d'affaires a.i.
of the Permanent Mission of Ghana to the United Nations
addressed to the Secretary-General

Upon instructions, I have the honour to transmit herewith the text of a statement issued on 7 August 1990 by the Government of the Republic of Ghana on the current crisis between Iraq and Kuwait (see annex).

I should be grateful if you would have the present letter and its annex circulated as an official document of the General Assembly, under item 35 of the provisional agenda, and of the Security Council.

(Signed) N. K. DUMEVI
Chargé d'affaires a.i.

* A/45/150 and Corr.1.

/...

90-18388 1657i (E)

ANNEX

Statement issued on 7 August 1990 by the Government of Ghana on the Iraq-Kuwait crisis

The Government of Ghana has expressed concern at the latest developments in the conflict between Iraq and Kuwait. It had been expected that the negotiations embarked upon by the two countries in the past few days would lead to a peaceful settlement of the crisis.

The Government of Ghana therefore feels compelled to address an urgent appeal to Iraq to exercise restraint and to return to the negotiating table with Kuwait in order to bring about a peaceful settlement.

This appeal is made in accordance with the spirit and principles of the Movement of Non-Aligned Countries and the Charter of the United Nations, particularly the principle of non-use of force in the settlement of disputes.

It is the view of the Ghana Government that the Government and people of Kuwait should be allowed to find a peaceful solution to any internal problems confronting their country. Ghana therefore urges the Iraqi Government to take steps to withdraw its forces from Kuwait to allow the situation there to return to normality as soon as possible.

The Government of Ghana further appeals to all Powers within and outside the Gulf area to refrain from any action that might aggravate the conflict between Iraq and Kuwait.

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NATIONS

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Security Council

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S/21459
8 August 1990

ORIGINAL: ENGLISH

REPORT BY THE SECRETARY-GENERAL CONCERNING THE CREDENTIALS OF THE ALTERNATE REPRESENTATIVE OF COLOMBIA ON THE SECURITY COUNCIL

Pursuant to rule 15 of the provisional rules of procedure of the Security Council, the Secretary-General wishes to report that he has received credentials signed on 27 July 1990 by the Minister for External Relations of Colombia stating that Mr. Jaime Giron Duarte has been appointed alternate representative of Colombia on the Security Council.

In the opinion of the Secretary-General, these credentials are in order.

90-18486 1687g (E)

UNITED
NATIONS

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Security Council

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GENERAL

S/21460
8 August 1990
ENGLISH
ORIGINAL: SPANISH

LETTER DATED 6 AUGUST 1990 FROM THE PERMANENT REPRESENTATIVE OF CHILE TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

I have the honour to enclose the text of the statement issued by my Government on 2 August 1990 regarding the recent events in Kuwait.

Statement made on 2 August 1990 by the Under-Secretary for Foreign Affairs of Chile on the invasion of Kuwait

"The Government of Chile has learned with deep concern of the invasion of Kuwait by Iraq's armed forces.

"Like the Security Council, the Government of Chile considers that the invasion of Kuwait by Iraq constitutes a serious breach of international peace and security, as well as a violation of exclusive provisions of the Charter of the United Nations.

"Chile condemns this use of force, calls for termination of the Iraqi occupation and urges the two States to initiate immediately negotiations aimed at settling their differences.

"At the same time, it supports the efforts of the United Nations and the League of Arab States to bring about an early restoration of peace.

Santiago, 2 August 1990."

I should be grateful if you would have this letter circulated as a document of the Security Council.

(Signed) Juan SOMAVIA
Ambassador
Permanent Representative

90-18456 1686g (E)

UNITED
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8 August 1990

ORIGINAL: ENGLISH

GENERAL ASSEMBLY
Forty-fifth session
Item 35 of the provisional agenda*
SITUATION IN THE MIDDLE EAST

SECURITY COUNCIL
Forty-fifth year

Letter dated 7 August 1990 from the Permanent Representative of Japan to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith the text of a statement issued on 7 August 1990 by the Minister for Foreign Affairs of Japan on the adoption of Security Council resolution 661 (1990) (see annex).

I should be grateful if you would arrange to have the present letter and its annex circulated as an official document of the General Assembly, under item 35 of the provisional agenda, and of the Security Council.

(Signed) Yoshio HATANO
Ambassador Extraordinary and Plenipotentiary
Permanent Representative of Japan to the
United Nations

* A/45/150 and Corr.1.

ANNEX

Statement issued on 7 August 1990 by the Minister for Foreign Affairs of Japan on the adoption of Security Council resolution 661 (1990)

1. The Government of Japan welcomes the adoption on 6 August by the United Nations Security Council of resolution 661 (1990), imposing comprehensive and mandatory sanctions against Iraq under Chapter VII of the Charter of the United Nations.

2. Today, expectations are rising of the role of the United Nations in the maintenance of international peace and security. The Government of Japan regards it to be of highest significance that the international community has decided, through the United Nations, to combine its efforts to gain the withdrawal of Iraqi troops and restore peace in the region.

3. The Government of Japan, for its part, will faithfully respect this resolution, in addition to carrying out its own measures, as it announced earlier on 5 August.

The Government of Japan hereby reiterates its strong hope that the objectives of this resolution will be achieved as soon as possible.

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Item 35 of the provisional agenda*
THE SITUATION IN THE MIDDLE EAST

SECURITY COUNCIL
Forty-fifth year

Letter dated 8 August 1990 from the Permanent Representative of the Ukrainian Soviet Socialist Republic to the United Nations addressed to the Secretary-General

I have the honour to enclose the statement issued by the Supreme Council of the Ukrainian Soviet Socialist Republic on 2 August 1990 concerning the Iraq-Kuwait conflict.

I should be grateful if you would have this letter and its annex circulated as an official document of the General Assembly, under item 35 of the provisional agenda, and of the Security Council.

(Signed) Guennadi I. OUDOVENKO
Ambassador
Permanent Representative of the
Ukrainian SSR to the United Nations

* A/45/150 and Corr.1.

ANNEX

Statement issued on 2 August 1990 by the Supreme Soviet of the Ukrainian Soviet Socialist Republic on the conflict between Iraq and Kuwait

As a result of the conflict that broke out between Iraq and Kuwait, Iraqi troops invaded the territory of Kuwait on 2 August 1990.

The Ukrainian SSR considers as unacceptable the use of force in the settlement of any international conflict that is not caused by acts of military aggression.

Proceeding from the requirements of current international law and striving to support the general trend towards the reduction of international tension in the world, the Supreme Soviet of the Ukrainian SSR considers as necessary the withdrawal of Iraqi troops from the territory of Kuwait and the settlement of this conflict by peaceful means.

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9 August 1990
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GENERAL ASSEMBLY
Forty-fourth session
Agenda item 47
QUESTION OF CYPRUS

SECURITY COUNCIL
Forty-fifth year

Letter dated 7 August 1990 from the Permanent Representative of Turkey to the United Nations addressed to the Secretary-General

I have the honour to submit, enclosed herewith, a letter addressed to you by His Excellency Mr. Özer Koray, Representative of the Turkish Republic of Northern Cyprus, to which is attached the text of a paper entitled "Turkish Republic of Northern Cyprus - the Status of the Two Communities in Cyprus" (see annex).

I would be grateful if my letter and its annex were circulated as a document of the forty-fourth session of the General Assembly, under agenda item 47, and of the Security Council.

(Signed) Mustafa AKSIN
Ambassador
Permanent Representative

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ANNEX

Letter dated 7 August 1990 from Mr. Özer Koray to the Secretary-General

Upon instructions from my Government, I have the honour to enclose herewith the text of an opinion paper entitled "Turkish Republic of Northern Cyprus - the Status of the Two Communities in Cyprus" written by eminent law Professor Mr. E. Lauterpacht, CBE, QC, dated 10 July 1990 (see attachment).

(Signed) Özer KORAY

Attachment

TURKISH REPUBLIC OF NORTHERN CYPRUS

THE STATUS OF THE TWO COMMUNITIES IN CYPRUS

Opinion of Mr. E. Lauterpacht, CBE, QC

1. This Opinion deals with two related questions. One is the status of the two communities, Greek and Turkish, in Cyprus, in relation to the settlement of the Cyprus question. The other is the interpretation and significance of Security Council resolutions 541 (1983) and 550 (1984), both of which purported to pronounce unlawful and invalid the 1983 Declaration of Independence of the Turkish Republic of Northern Cyprus ("the TRNC") and called upon States not to recognize the TRNC.

2. In summary, the Opinion reaches the following conclusions:

Part I (paras. 3-32)

On the basis of an examination of the treaties and other instruments, including the Cyprus Constitution, concluded in 1959 and 1960, and of the resolutions of the Security Council and General Assembly, as well as of statements by the Secretary-General of the United Nations, it can properly be said that the Turkish Cypriot Community possesses the same political status as the Greek Cypriot Community, that the two communities participate in the negotiations for the settlement of the Cyprus question on an equal footing and that, it follows, the Greek Cypriot Community should not enjoy any privileged position in the negotiations, whether on matters of substance or of procedure, by reason of the fact that it presents itself as the Government of the Republic of Cyprus.

Part II (paras. 33-53)

(a) Resolutions 541 (1983) and 550 (1984) of the Security Council in so far, in particular, as they purport to treat the 1983 declaration by the TRNC of its independent statehood as incompatible with the 1960 Treaties of Establishment and Guarantee and as being legally invalid, and to call upon States not to recognize the TRNC, are legally not soundly based.

(b) The Security Council itself defined its concern with the affairs of the Republic of Cyprus in terms of the 1960 Constitution and of the Treaties of Establishment and of Guarantee concluded at the same time. The resolutions in effect purported to express legal conclusions based upon what must presumably have appeared to the Security Council at the time to be valid legal considerations. But because, as a matter of fact, the action of the Turkish Cypriot community clearly flowed from and was a reaction to the prior conduct of the Greek Cypriot community, and because the Greek Cypriot community owed duties to the Republic of Cyprus and to the Turkish Cypriot community no less than the latter did to the former, as a matter of law, no judgement could properly be passed by the Security Council upon the conduct of one side without at the same time passing judgement on the conduct of the other.

/...

(c) The Security Council did not adopt this even-handed approach. Instead it dealt with the action of the Turkish Cypriot community in isolation. If it had assessed the situation as a whole, it could not possibly have concluded that the conduct of the Turkish Cypriot community violated the controlling legal instruments while the conduct of the Greek Cypriot community did not. Nor could it have reached any other conclusion than that the action of the Greek Cypriot community justified the conduct of the Turkish Cypriot community.

(d) The resolutions of the Security Council were, therefore, tainted by such a degree of selectivity and incompleteness as to render them arbitrary and discriminatory, and thus not well founded in law. It follows that the call to States not to recognize the TRNC was not legally justified. The action of the Security Council in this case was quite different to its action in relation to Rhodesia and the African bantustans where there were no controlling treaties. Accordingly, pending the settlement of the Cyprus question by negotiations between the two communities, the Security Council's call for non-recognition of the TRNC should not be maintained.

(e) It is wrong for the Security Council to express legal opinions more suited to a judicial than a political body. The Security Council does not adhere to judicial forms and cannot in the course of a debate on any situation probe the legal issues with the thoroughness and fairness of a judicial body. Its decisions should not, therefore, extend beyond the prescription of specific action aimed at maintaining or restoring international peace.

PART I. THE STATUS OF THE CYPRIOT COMMUNITIES IN THE CONTEXT OF THE SETTLEMENT OF THE CYPRUS QUESTION

3. The position of the Greek and Turkish parties in Cyprus in relation to the settlement of the Cyprus question is really quite straightforward. The two parties are separate communities of equal standing in the negotiations, each exercising its right to determine its own future and neither being subordinate to the other in any material respect. The disparity in numbers between them does not affect their equality of status in relation to the settlement of the Cyprus problem.

4. The positions of the communities thus described derives from a number of basic texts and is uniformly reflected in statements of the guarantor Powers, Greece, Turkey and the United Kingdom of Great Britain and Northern Ireland, and in acts of the United Nations, whether in the form of resolutions of the Security Council and the General Assembly or in statements of the Secretary-General.

The basic texts

1. Prior to the independence of Cyprus

5. An early acknowledgement of the status of the two communities - and a particularly significant one as emanating from the Colonial Secretary of Britain, at that time the country responsible for the governance of Cyprus - is to be found

in the statement of Mr. Lennox Boyd made in the House of Commons on 19 December 1956:

> "... it will be the purpose of Her Majesty's Government to ensure that any exercise of self-determination should be effected in such a manner that the Turkish Cypriot community, no less than the Greek Cypriot community shall, in the special circumstances of Cyprus, be given freedom to decide for themselves their future status. In other words, Her Majesty's Government recognize that the exercise of self-determination in such a mixed population must include partition among the eventual options."

This statement was confirmed by the Prime Minister, Mr. Macmillan, on 26 June 1958, when he also described the Colonial Secretary's assurances as "pledges".

6. This identification of the essential parties to the Cyprus situation and of their basic parity was carried through into the negotiations leading up to the independence of Cyprus. The Memorandum setting out the Agreed Foundation for the Final Settlement of the Problem of Cyprus, signed in London on 19 February 1959, took note "of the Declaration by the Representative of the Greek-Cypriot community and the representative of the Turkish Cypriot community that they accept the documents annexed to this Memorandum as the agreed foundation for the final settlement of the problem of Cyprus". 1/

7. The Zurich Accord, on which the London Agreement was based, incorporated the concept of the two communities in the first paragraph of the document setting out "Basic Structure of the Republic of Cyprus". This provided that:

> "The State of Cyprus shall be a Republic with a presidential régime, the President being Greek and the Vice-President Turkish elected by universal suffrage by the Greek and Turkish communities of the Island respectively."

The attribution to the Greek Cypriot community of the Presidency and to the Turkish Cypriot community of the Vice-Presidency was an understandable reflection of the greater numerical size of the Greek Cypriot community. But it contained no statement or acknowledgement of any superior constitutional status for the Greek Cypriot Community. Indeed, the "Basic Structure" is replete with provisions specifically assuring the respective rights of each of the two communities and providing for checks and balances to assure the rights of each, for example, it specifies a Council of Ministers composed of seven Greek Ministers and three Turkish Ministers, it vests executive authority in the President and Vice-President and grants them each a right of veto over decisions of the Council of Ministers and laws and decisions of the House of Representatives, in laying down that the House of Representatives should be elected in the proportion of 70 per cent for the Greek community and 30 per cent for the Turkish community, in the establishment of Communal Chambers for each community, in the specification that the Civil Service should also be composed as to 70 per cent of Greeks and as to 30 per cent of Turks, and so on.

2. The Cyprus Constitution of 1960

8. All the features of the Basic Structure were immediately implemented in many Articles of the Constitution of Cyprus, notably Articles 1, 2, 46-51, 57, 59, 60, 62, 67, 72, 73, 77, 86-111, 123, 125, 133, 153, 159, 171 and 173. Moreover, Article 182 provided that the Basic Articles of the Constitution (which were listed in Annex III and by and large are those listed above) could not in any way be amended. Article 185 provided that the territory of the Republic is "one and indivisible". It also excluded "the integral or partial union of Cyprus with any other State or the separatist independence". This provision was intended to prevent any Enosis or union with Greece by the Greek Cypriots and any union with Turkey by the Turkish Cypriots.

3. The internationalization of the Constitution: the Treaties of Establishment and Guarantee

9. These fundamental elements of the Cyprus Constitution were lifted onto the plane of international law by treaties contemporaneously concluded between Cyprus, Greece, Turkey and the United Kingdom. The Treaty of Establishment defined the territory of the Republic of Cyprus and contained a Preamble expressing the commitment of all the Parties to the maintenance of the status of the two communities by declaring their desire "to make provision to give effect to the Declarations" made by, inter alia, "the Representative of the Greek Cypriot Community and by the Representative of the Turkish Cypriot Community". It also contained - in a manner binding all parties - acknowledgement of the entitlement of the United Kingdom to retain the so-called "Sovereign Base Areas".

10. Even more direct and explicit in its terms was the Treaty of Guarantee, the parties to which were the Republic of Cyprus of the one part and Greece, Turkey and the United Kingdom of the other part. In the Preamble they

- stated

> "that the recognition and maintenance of the independence, territorial integrity and security of the Republic of Cyprus, as established and regulated by the Basic Articles of its Constitution, are in their common interest" (emphasis supplied) and

- expressed their desire

> "to co-operate to ensure respect for the state of affairs created by that Constitution".

11. The operative part contained three articles of dominant importance.

12. In the first, the Republic of Cyprus undertook to ensure the maintenance of "respect for its Constitution" as well as not to participate in any political or economic union with any State. (Art. 1)

13. In the second, Greece, Turkey and the United Kingdom, after noting the undertakings of the Republic of Cyprus, recognized and guaranteed "the state of affairs established by the Basic Articles of its [of Cyprus] Constitution" (Art. 2)

14. In the third, Greece, Turkey and the United Kingdom undertook that, in the event of a breach of the provisions of the Treaty, they would consult together.

> "In so far as common or concerted action may not prove possible, each of the three guaranteeing Powers reserves the right to take action with the sole aim of re-establishing the state of affairs created by the present Treaty." (Art. 4)

15. In addition, Cyprus, Greece and Turkey undertook to respect the integrity of the British Sovereign Base Areas and to guarantee the use and enjoyment by the United Kingdom of its rights therein. 2/

16. Thus, an essential and inescapable ingredient of the coming into being of the Republic of Cyprus was the concept of the balanced and guaranteed participation of both communities, Turkish no less than Greek, in every basic aspect of the Government of Cyprus. The exclusion from the governmental process of Cyprus of one or the other of the communities would mean that the Government so functioning would not be the Government of the Republic of Cyprus as contemplated and established by the international settlement and treaties concluded in 1960. Any such limping Government would lack constitutional legitimacy and, in so far as it claimed to represent the Republic of Cyprus, would as a matter of international law be in breach of the fundamental undertakings on the international plane given by the Republic in the 1960 Treaties regarding the bi-communal character of the Republic and its Government.

4. Recognition by the United Nations of the equal status of the Greek and Turkish Cypriot communities

17. With the one exception that will be examined more closely in part II of this Opinion (para. 33 and following), the practice of the United Nations has been strikingly uniform in its acknowledgement that the Cyprus problem involves the two communities and that in this involvement they stand on a footing of equality. This practice takes the form of resolutions of the Security Council and of the General Assembly, and of reports of the Secretary-General.

18. At the time of its first consideration of the problem in 1964 the Security Council noted the special position of the communities. In its resolution of 4 March 1964, the Security Council called upon "the communities in Cyprus and their leaders to act with the utmost restraint" and recommended that the Secretary-General should appoint a mediator who should use his best endeavours "with the representatives of the communities" to promote a settlement (S/5575). 3/

19. The acceptance by the Security Council of the primacy of the Constitution of Cyprus in the resolution of the problem and, therefore, of the entitlement of the Turkish Cypriot community to full participation in the government of Cyprus, is shown in the Security Council's resolution 353 (1974) of 20 July 1974, following

upon the Greek coup of 15 July 1974 and the intervention by Turkey in the exercise of its rights as a guarantor of the 1960 settlement. There, the preamble declared the concern of the Council "about the necessity to restore the constitutional structure of the Republic of Cyprus, established and guaranteed by international agreements". It may be noted, parenthetically, that that concern was reiterated 10 days later in the Geneva Declaration issued by the Foreign Ministers of Greece, Turkey and the United Kingdom when they urged that "negotiations should be carried on to secure the restoration of peace in the area and the re-establishment of constitutional government in Cyprus". The Foreign Ministers also acknowledged the status of the communities by agreeing "that representatives of the Greek Cypriot and Turkish Cypriot Communities should, at an early stage, participate in the talks relating to the Constitution", including the question "of an immediate return to constitutional legitimacy". Lastly, they "noted the existence in practice in the Republic of Cyprus of two autonomous administrations, that of the Greek Cypriot community and that of the Turkish Cypriot community".

20. On 30 August 1974, the Security Council again acknowledged the role of the two communities by expressing its appreciation to the Secretary-General for the part he played in bringing about talks between the leaders of the two communities (resolution 361 (1974)).

21. Later in the same year, the General Assembly entered the picture by adopting a resolution that, among other things, stated that it "considers that the constitutional system of the Republic of Cyprus concerns the Greek Cypriot and Turkish Cypriot communities" and "commends the contact and negotiations taking place on an equal footing, with the good offices of the Secretary-General, between the representatives of the two communities, and calls for their continuation with a view to reaching freely a mutually acceptable political settlement, based on their fundamental and legitimate rights" (General Assembly resolution 3212 (XXIX) of 1 November 1974). This resolution was endorsed by the Security Council in resolution 365 (1974) of 13 December 1974.

22. On 13 February 1975, the Turkish Cypriot community proclaimed the Turkish Federated State of Cyprus ("TFSC"). According to the Introduction to the text of the Constitution of the TFSC published on 1 July 1975 the Turkish Cypriots had by February 1975 found that, having regard to developments since 1963,

> "it was absolutely necessary for the Turkish Cypriot Community to make a fundamental re-organization of its internal structure in the light of the large region which it had to administer".

The Security Council expressed "regret" at this development

> "as, inter alia, tending to compromise the continuation of negotiations between the representatives of the two communities on an equal footing" (resolution 367 (1975), para. 2).

There is, of course, an inherent contradiction in the resolution in so far as, on the one hand, it stresses negotiations between the communities "on an equal footing" and, on the other, it regrets the assertion by the Turkish Cypriot

community of the quality of statehood that evinced the entitlement and need of that community to possess equal standing as a State with the Greek Cypriot community. But in any event, it is sufficient to note the continuing identification by the Security Council of the role of the two communities on an equal footing.

23. Throughout this period the approach of the Secretary-General to the two sides in the dispute had consistently been on the basis that the talks were between the two communities, not between the Republic of Cyprus and some secessionist body. His approach is reflected in his interim report on discussions regarding the powers and functions of a federal government. This was expressed in terms of his having "met ... with the representatives of the Greek Cypriot and Turkish Cypriot communities" (United Nations document S/11789 of 5 August 1975). Also, in his report of 8 December 1975 (S/11900 and Add.1) the Secretary-General expressed the view that in the then circumstances the best available means of making progress towards a settlement "is through continued talks between the representatives of the two communities".

24. This view was echoed in General Assembly resolution 3395 (XXX) of 20 November 1975, when the Assembly called

> "for the immediate resumption in a meaningful and constructive manner of the negotiations between the representatives of the two communities, under the auspices of the Secretary-General, to be conducted freely on an equal footing with a view to reaching a mutually acceptable agreement based on their fundamental and legitimate rights".

For its part, the Security Council endorsed this wording by repeating it in the preambles to resolutions 391 (1976), 401 (1976) and 410 (1977).

25. In the formal outcome of the ensuing discussions between the two communities there was no departure from the concept of negotiation on an equal footing. The "High-Level Agreement" of 12 February 1977 between President Makarios and President Denktas declared that "we are seeking an independent, non-aligned, bi-communal Federal Republic". Bi-zonality was also accepted: "the territory under the administration of each community should be discussed ..."

26. Later in the same year the Security Council again called upon "the representatives of the two communities" to resume negotiations (resolution 414 (1977) of 15 September 1977), as did the General Assembly in the by now well-hallowed phrase "negotiations between the representatives of the two communities, to be conducted freely on an equal footing" (resolution 32/15 of 9 November 1977).

27. The next High-Level Agreement (the so-called "10-Point Agreement") of 19 May 1979 between President Denktas and President Kyprianou in no way departed from this approach. Even though the Agreement did not restate the approach expressly, it accepted it impliedly. This Agreement was referred to in General Assembly resolution 34/30 of 20 November 1979 when "the representatives of the two communities" were called on to resume negotiations "on an equal footing". Similar wording also appeared in General Assembly resolution 37/253 of 13 May 1983.

28. There began in December 1981 a series of Security Council resolutions which, in renewing the mandate of UNFICYP (as many resolutions had previously done) also noted that "the parties have resumed their intercommunal talks". (See resolutions 495 (1981), 510 (1982), 526 (1982) and 534 (1983).)

29. In short, for the period ending in November 1983 (when the Turkish Cypriot community declared the establishment of the TRNC), there is a clear pattern of acknowledgement by the United Nations of the separate status of the two communities in Cyprus, of the requirement that they should negotiate on "an equal footing" and that the eventual solution should take the form of a unified state, albeit bi-zonal in character.

30. As this exposition of the position of the United Nations regarding the status of the Cypriot communities has so far been presented in chronological order, it might be expected that the next item for mention would be the developments in the United Nations following, and related to, the declaration of the independence of the TRNC on 15 November 1983. However, this event occasioned the adoption of views in the United Nations which, upon closer scrutiny, appear not to be fully consistent with the main trend of United Nations emphasis upon the separate but equal status of the two communities. For this reason, it will be convenient briefly to postpone the treatment of that episode to part II of this Opinion.

31. The remainder of what needs to be said about the approach of the United Nations to the status of the two communities is brief. In general, not only has the United Nations not departed from the pattern established before 1983; it has in fact reiterated its emphasis upon the equal status of the two communities. Thus, in the Secretary-General's "Talking points" as delivered at his Vienna meeting with the representatives of the two sides on 6 and 7 August 1984, he said (emphasis supplied):

> "As regards the establishment of a central government for the federal republic, it will be politically imperative to find a proper balance between the equal political status of the two communities, the unity of the country, and the functional requirements of a government capable of fulfilling effectively the powers assigned to it."

This approach has marked all the Secretary-General's contributions since that date including, for example, the "Draft Framework Agreement on Cyprus" presented by him on 29 March 1986. Again, in his opening statement at the meeting held in New York in February 1990, he said:

> "Cyprus is the common home of the Greek Cypriot community and of the Turkish Cypriot community. Their relationship is not one of majority and minority, but one of two communities in the state of Cyprus. The mandate given to me by the Security Council makes it clear that my mission of good offices is with the two communities. My mandate is also explicit that the participation of the two communities in this process is on an equal footing." (S/21183, p. 7)

Later in the statement the Secretary-General also said:

> "The political equality of the two communities in and the bi-communal nature of the federation need to be acknowledged. While political equality does not mean equal numerical participation in all federal government branches and administration, it should be reflected inter alia in various ways: ... and in the equality and identical powers and functions of the two federated states." (ibid.)

32. Most recently, the Security Council, in its resolution of 12 March 1990 (649 (1990)) called upon

> "the leaders of the two communities to pursue their efforts to reach freely a mutually acceptable solution providing for the establishment of a federation that will be bi-communal as regards the constitutional aspects and bi-zonal as regards the territorial aspects in line with the present resolution and their 1977 and 1979 high-level agreements, and to co-operate, on an equal footing, with the Secretary-General in completing, in the first instance and on an urgent basis, an outline of an overall agreement, as agreed in June 1989".

PART II. THE ESTABLISHMENT OF THE TRNC AND SECURITY COUNCIL RESOLUTIONS 541 (1983) AND 550 (1986)

33. On 15 November 1983 the establishment of the TRNC as an independent State was declared by the Turkish Cypriot people. This took a step further the process of separate political identification of the Turkish Cypriot community that had been initiated on 13 February 1975 by the proclamation of the TFSC. The difference now was that, whereas the TFSC was essentially a restructuring "of the autonomous Turkish Cypriot administration" (see the statement of Mr. Denktas issued on 13 February 1975) that had come into being in the period since the subversion of the Constitution by the Greek Cypriots in December 1963, and made no formal claim to independence, the TRNC was declared to be an independent State.

34. The reaction of the Security Council was expressed on two occasions. The first was in resolution 541 (1983) of 18 November 1983. The Security Council stated its "concern" at the Declaration, "considered" that the Declaration was "incompatible with the 1960 Treaty concerning the establishment of the Republic of Cyprus and the 1960 Treaty of Guarantee", "deplored ... the purported secession of part of the Republic of Cyprus" and concluded that the Declaration was "legally invalid", called for its withdrawal and called upon all States not to recognize any Cypriot State other than the Republic of Cyprus.

35. The second Security Council resolution, adopted six months later on 11 May 1984, was resolution 550 (1984). After declaring in its preambular part the concern of the Security Council at the "further secessionist acts" it

> "condemns all secessionist actions, including the purported exchange of ambassadors between Turkey and the Turkish Cypriot leadership, declares them illegal and invalid and calls for their immediate withdrawal".

The Security Council also reiterated its call to all States not to recognize "the purported State" of the TRNC.

36. It is evident that the position of the Security Council in relation to the TRNC is predicated upon the Council's assessment of the legal position. This was declared in the resolutions in two important legal findings which are essentially as follows:

- the 1983 Declaration of the TRNC "is incompatible with the 1960 Treaty concerning the establishment of the Republic of Cyprus and the 1960 Treaty of Guarantee"; and

- the creation of the TRNC is "legally invalid".

Each of these propositions calls for closer scrutiny.

1. The proposition that the establishment of the TRNC "is incompatible with the 1960 Treaty concerning the establishment of Cyprus and the 1960 Treaty of Guarantee"

(a) "The 1960 Treaty concerning the establishment of Cyprus"

37. This is, presumably, to be taken as a reference to the treaty that is generally known as "the Treaty of Establishment". To the extent that this Treaty can be said to be binding upon the Turkish Cypriot community (since, given the denial by the Security Council of the existence of the TRNC, the Treaty clearly cannot be binding on the latter entity), this must derive from the preambular provision in which the stated parties (the United Kingdom, Greece, Turkey and the Republic of Cyprus) express their desire

> "to make provisions to give effect to the ... Declarations made at the [London] Conference ... by the Representative of the Greek Cypriot Community and by the Representative of the Turkish Cypriot Community". 4/

The operative points of these declarations were that each representative

> "accepts the documents and declarations as the agreed foundation for the final settlement of the problem of Cyprus".

The principal item in the "documents and declarations" there referred to included the "Basic Structure of the Republic of Cyprus" (already referred to, see above, para. 7), all the elements of which were carried through into the Cyprus Constitution of 1960. The absolutely fundamental feature of this Structure was the joint participation in the Government of Cyprus of both the Greek and the Turkish Cypriot communities in the precise, detailed and, above all, balanced manner set out in those documents. Now, while it is obviously true that the 1983 proclamation of the existence of the TRNC as an independent State is incompatible with that structure, it is (and, equally, was at the time of the adoption of the Security Council resolutions 541 (1983) and 550 (1984)) absurd to disregard the undoubted fact that the dominant and controlling features of the Basic Structure and the

Constitution had been inoperative for a score of years, since the time (in 1963-1964) when the Greek Cypriot community had effectively excluded the Turkish Cypriot community from the scheme of power-sharing established by the Basic Structure and the Constitution.

38. This is not to say that the 1960 Treaty of Establishment was no longer in force in 1983. It is only to say that if the Security Council attached importance to the idea of compatibility of the conduct of the Turkish Cypriot community with the Treaty, it should have attached the same importance to the compatibility with that Treaty of the conduct of the Greek Cypriot community. By failing to do so, the Security Council not only signally failed to apply in an objective and even-handed manner the substantive legal requirements to which it had itself made reference; it also failed to adhere to the standard of equal treatment that it had repeatedly affirmed in its use, in relation to the negotiations between the two sides, of the words "on an equal footing".

39. In short, if the Security Council had taken a whole (as opposed to an incomplete) view of the situation in 1983, it should not have found that the TRNC Declaration was "incompatible" with the 1960 Treaty of Establishment without also having found that the conduct of the Greek Cypriot community had for the previous 20 years been "incompatible" with the 1960 settlement and, moreover, that it was that conduct of the Greek Cypriot community that had led directly to the reaction of the Turkish Cypriot community. There can be no legal basis for holding one party to the terms of an agreement without predicating the requirement of an equal degree of compliance by the other. There should be recalled in this connection the statement by the International Court of Justice in the Namibia Advisory Opinion (ICJ Reports 1971, at p. 46) of what it termed "one of the fundamental principles" governing the international relationship involved there:

> "... a party which disowns or does not fulfil its own obligations cannot be recognized as retaining the rights which it claims to derive from the relationship".

That statement is equally applicable to the Cyprus situation.

40. The failure of the Security Council to conform to these basic and controlling legal considerations undermines comprehensively the rationality and persuasiveness of its resolutions and, hence, the legal worth of those resolutions. The fact that seven years have passed since the adoption of those resolutions cannot serve to validate the unsound legal approach then adopted. There is nothing to prevent the Security Council from now endeavouring to put matters right by seeking to match the approach adopted in these two resolutions to the undoubted historical facts; indeed every legal consideration militates in favour of the adoption by the Security Council of a more principled position that would make a positive contribution to the settlement of the question, namely, the retraction of its denial of the legality and validity of the action of the Turkish Cypriot community and of its call to refrain from recognition of the TRNC. 5/

(b) "The 1960 Treaty of Guarantee"

41. Security Council resolution 541 (1983) also refers to the incompatibility of the Turkish Cypriot action with the 1960 Treaty of Guarantee. All the observations made above regarding the 1960 Treaty of Establishment are equally applicable to this Treaty. In addition, however, it is appropriate to note that this Treaty, even more expressly than the Treaty of Establishment, gives international standing to the Basic Structure and the Constitution of 1960. Thus, in the Preamble, the Parties state the consideration

> "that the recognition and maintenance of the independence, territorial integrity and security of the Republic of Cyprus, as established and regulated by the Basic Articles of its Constitution, are in their common interest".

The reason for giving emphasis in the phrase just quoted to the words "as established and regulated by the Basic Articles of its Constitution" is that the effect of these words is to define that "Republic of Cyprus" of which the independence and territorial integrity is to be recognized and maintained. In terms of the Treaty of Guarantee, a Cyprus that is not regulated by the Basic Articles of its Constitution is not "the Republic of Cyprus" at all and it follows that the assertion of the independence of the TRNC cannot be an unlawful secession.

42. Reference must also be made to Article 1 of the same Treaty:

> "The Republic of Cyprus undertakes to ensure the maintenance of its independence, territorial integrity and security, as well as respect for its Constitution.
>
> It undertakes not to participate, in whole or in part, in any political or economic union with any State whatsoever. It accordingly declares prohibited any activity likely to promote, directly or indirectly, either union with any other State or partition of the Island."

43. The Security Council has evidently taken the view that this Treaty is directly binding upon the Turkish Cypriot community, otherwise the Security Council could not have deemed the 1983 Declaration of the TRNC to be "incompatible" with that Treaty. But if that is the case and if the Treaty is binding on the Turkish Cypriot community, it must be at least as binding on the Greek Cypriot community, if not more so, because it is that community which is holding itself out to be "the Republic of Cyprus".

44. The Security Council was, therefore, in error in failing to apply the terms of the Treaty of Guarantee equally to both communities. It is, in the historical circumstances of the situation, impossible to attribute a responsibility to the Turkish Cypriot community for conduct said to be "incompatible" with the Treaty of Guarantee without, at the same time, assessing the relevance to the situation of the conduct of the Greek Cypriot community and, in particular, its deliberate disregard of the terms of the Cyprus Constitution throughout the period of 20 years preceding the establishment of the TRNC.

2. The proposition that the 1983 Declaration of the TRNC is "legally invalid"

45. The express statement by the Security Council, both in paragraph 2 of resolution 541 (1983) and in paragraph 2 of resolution 550 (1984) that the 1983 Declaration is "legally invalid" requires consideration of the question: by reference to what law is this legal invalidity to be determined? There are only two possibilities: one is the constitutional law of Cyprus; the other is international law.

46. As regards the constitutional law of Cyprus, it will be clear that no assessment of the legal validity of the conduct of the Turkish Cypriot community can be carried out without a comparable consideration of the legal validity of the conduct of the Greek Cypriot community. The two legal situations are necessarily interconnected. Any assessment of the one without a corresponding assessment of the other is, therefore, bound to be inherently flawed. But more than that, as already stated, any consideration of the one without consideration of the other contradicts the policy reflected in the Security Council's own declared position that the parties must negotiate "on an equal footing" - an approach which logically carries with it the principle, necessarily part of any lawyer's approach to the consideration of an issue between two parties, that both must be treated with perfect equality.

47. There may, of course, be some who attach special weight to the fact that the Greek Cypriots are in a numerical majority in Cyprus. That consideration may be relevant to the political act of distributing power and positions within the Constitution. This is shown by the fact that, for example, the 1960 Constitution provides that the Council of Ministers shall be composed of seven Greek Ministers and three Turkish Ministers (Art. 46) and that 70 per cent of the members of the House of Representatives shall be elected by the Greek community and 30 per cent by the Turkish community. But inequality of numbers cannot generate inequality of obligation. The fact that one community may constitutionally be entitled to more Ministers or more representatives than the other does not mean there is some corresponding entitlement the more freely to reject the duty of compliance with an agreed Constitution. The numerical majority of the Greek community cannot be invoked to justify fundamental departures from the Constitution by that community while insistence is still placed on conformity by the Turkish community with its obligations under the same instrument.

48. In so far as the "illegality" of the TRNC action is thought to derive from international law, the consideration already given above to the relevance and operation of the 1960 Treaties should be sufficient to dispose of that point.

49. The possibility remains, however, that some may see in the references to national unity and territorial integrity in the Declaration on the Granting of Independence to Colonial Countries and Peoples (General Assembly resolution 1514 (XV) of 1960), and the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations (General Assembly resolution 2625 (XXV) of 24 October 1970), a reason for characterizing the TRNC declaration as illegal. No doubt these prescriptions are of general importance, but the fact of their

generality must be emphasized. In contrast, the present situation is very specific - especially in the relevance to it of the 1960 Treaties and the Basic Structure and 1960 Constitution which are endorsed and guaranteed in those Treaties. It is axiomatic and beyond discussion that treaties override customary international law. The general terms of the Declarations on colonialism and on principles of international law - which at best are no more than customary international law - must give way to the explicit and clear requirements of the relevant treaties.

50. This same consideration bears with special weight on any supposed similarity between the present case and the other episodes in which the Security Council has called upon States not to recognize certain secessionist or new entities. Such action was taken indirectly over Katanga and expressly over Rhodesia and the African "bantustans". But they are totally distinguishable from the present situation. The principal point of distinction is that they were not affected by any controlling treaty - in contrast with the role here of the 1960 Treaties of Establishment and of Guarantee. A second point of distinction is that in the last two of those cases the inhibition on recognition derived from the fact that the establishment of the entity involved a continuance, in one or another form, of the concept of colonialism. That certainly is not true of the claim to independence by the Turkish Cypriot community.

51. The truth of the matter is that in determining that the establishment of the TRNC was illegal and invalid, and in attaching to that determination the sanction that States should not recognize the TRNC, the Security Council was evidently purporting to act in a judicial capacity. That is the only proper description of the conduct of anyone or any body that claims the right to make findings of "illegality" or "invalidity". Yet in so acting the Security Council did not behave in the manner appropriate to the performance of a judicial function. True, it heard both sides, in the sense that it heard speeches from President Denktas as well as from the representative of the Greek Cypriot community. But having regard to the range and complexity of the issues upon which it ventured directly or indirectly to make a finding, namely, the conformity with the 1960 Constitution of the conduct of the two communities, its scrutiny of the situation was at best superficial. The judgement, in the form of a draft resolution, was prepared and was in circulation before the debate even took place - an order of proceeding that is in no way compatible with the judicial process of ascertaining facts and weighing arguments before reaching a reasoned conclusion.

52. It must, of course, be acknowledged that the Security Council is not organized or intended to act as a judicial body. But in that case, it should be recognized that the conduct of the Security Council should stop short of passing judgement upon legal issues. Decisions of the Security Council should be limited to prescribing a course of action directed towards eliminating the situation that amounts to a threat to the peace, a breach of the peace or an act of aggression. That prescription should be founded on the primary responsibility of the Security Council to maintain international peace and security. If threshold determinations of law are necessarily involved, they should only be expressed if they can be subjected to proper judicial review. Even though this view of the matter is not one that has commended itself to the Security Council over the years, the validity

of these considerations is such that it is proper to draw attention to them in the hope that, at least in this case, the injustice that flows from this practice may be remedied.

Notes

1/ Declarations to this effect were signed by Dr. Kutchuk (representing the Turkish Cypriot community) and Archbishop Makarios (representing the Greek Cypriot community) on the same day.

2/ This obligation has particular relevance to the apprehension expressed in some quarters in the United Kingdom regarding the possible effect that recognition by the United Kingdom of the TRNC might have upon the British position in the sovereign base areas. In countering any threat to its position, the United Kingdom would be entitled to call upon the help of its co-guarantors.

3/ The terminology used by the Security Council has occasionally varied. Thus on 22 December 1967 it invited "the parties" to avail themselves of the good offices offered by the Secretary-General and called upon "the parties" to show moderation and restraint (resolution 244 (1967)). While this wording clearly covers the two communities, it also appears to have been intended to cover the States involved, namely, Greece and Turkey. Similar language also appears in later resolutions - most of which dealt with the renewal of the mandate of the United Nations Peace-keeping Force in Cyprus (UNFICYP).

4/ There is no other provision in the Treaty of Establishment which contains any commitment by the two Cypriot communities to observe the terms of the settlement.

5/ It may be added that the concern that the Security Council has shown over the action that Turkey, as a guarantor of the constitutional structure of Cyprus, was obliged to take in 1974 and thereafter can have no legal bearing upon the identification of the responsibility of the Greek Cypriot community for the prior breach of the Basic Structure and the Constitution in the decade preceding that intervention.

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Security Council

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S/21464
8 August 1990
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LETTER DATED 7 AUGUST 1990 FROM THE PERMANENT REPRESENTATIVE OF URUGUAY TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

I have the honour to enclose the text of the statement issued today by my Government concerning the recent events in Kuwait.

I should be grateful if you would have the statement circulated as a document of the Security Council.

(Signed) Ramiro PIRIZ-BALLON
Ambassador
Permanent Representative
of Uruguay to the United Nations

Annex

Statement dated 7 August 1990 by the Government of Uruguay

The Government of Uruguay, deeply concerned at the situation created by the invasion and occupation of the territory of Kuwait by Iraqi armed forces, reiterates what was stated in the communiqué issued on 6 August 1990, and welcomes the action taken by the United Nations Security Council, under Chapter VII of the Charter, by resolution 661 (1990), which was adopted with no votes cast against.

The prompt reaction by the organ which bears the basic responsibility for the maintenance of international peace and security constitutes an auspicious development which marks an important milestone along the Organization's road to the effective achievement and consolidation of the purposes and principles of the Charter, and gives peoples and Governments renewed confidence in its vital mission.

Uruguay, a peace-loving country and a faithful defender of the principles of non-intervention, respect for the sovereignty and territorial integrity of States and peaceful settlement of international disputes, expresses its firm support for this resolution and, given its binding nature under the terms of Article 25 of the Charter, will take the necessary measures, including the application of the sanctions provided for, in order to ensure the resolution's full implementation within the sphere of its competence.

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8 August 1990
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LETTER DATED 8 AUGUST 1990 FROM THE PERMANENT REPRESENTATIVE OF CUBA TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

I have the honour to enclose the text of the letter which His Excellency Mr. Fidel Castro Ruz, President of the Council of State and of the Government of the Republic of Cuba, addressed to the Heads of State of the Arab countries concerning the events which are taking place in connection with the conflict between Kuwait and Iraq.

I request that this letter be circulated to all the Members of the United Nations as a document of the Security Council.

(Signed) Ricardo ALARCON de QUESADA
Ambassador
Permanent Representative of Cuba
to the United Nations

/...

Annex

Letter addressed to the Heads of State of the Arab countries by the President of the Council of State and of the Government of the Republic of Cuba

I am writing to you to express my profound concern about the events which are threatening the Arab world and mankind in general.

I firmly believe that the possibility still exists for the leaders of the Arab nation, at this crucial juncture, to prevent the conflict between Iraq and Kuwait from impinging adversely on the independence of many Arab States and turning into an economic catastrophe and also a holocaust that affects a substantial portion of their peoples. Such is the threat we perceive in the increasing and accelerated preparations for direct military intervention by the United States and its allies. No less alarming is the evidence of steps taken to establish, for similar interventionist purposes, a multinational force whose composition reflects a new alignment of forces world wide which would tip the balance against the interests of the Arab peoples.

In its current capacity as a non-permanent member of the Security Council, Cuba did not hesitate to vote in favour of Council resolution 660 (1990) on 2 August. We took this necessary and just step, not without sorrow and grief, on the basis of a principled policy regarding the inadmissibility of the use of force and military superiority to settle conflicts between countries, especially when it is a matter of a fratricidal confrontation between peoples of the third world. We are joined to both Iraq and Kuwait by bonds of esteem and friendship which draw strength from Cuba's solidarity with the Arab nation and the Palestinian people in the face of Israeli aggression and colonial expansion. Our historic ties of co-operation with numerous Arab countries in various sectors are, moreover, well known.

These same principles, which as you will doubtless understand are very dear to a Cuba permanently threatened with aggression, and the conviction that if there is something which we must avoid at all costs in a situation such as this it is adding fuel to the fire of war, prompted our abstention a few hours ago with respect to a further draft resolution of the Security Council, sponsored and feverishly negotiated by the United States, which, among other measures, imposes a total economic blockade of Iraq, a step that in our opinion is precipitate and diminishes the opportunities for a peaceful solution. In addition, this new resolution, at which the United States, together with its closest allies, has good reason to rejoice, creates ideal conditions for an escalation of the situation and for the probable use of the most powerful war machine in the world with the undoubted aim of strengthening its hegemony in the region.

Punishing Iraq for its deplorable and unacceptable action in Kuwait is merely a pretext for the United States, which is even seeking an opportunity of invoking Article 42 of the Charter of the United Nations to legitimize its armed intervention and carry it out on behalf of the international community. This is

the disaster we are exposed to. The leaders of the Arab nation, more than anyone, must find offensive the fact that this Security Council, which was unanimous with the sole exceptions of Yemen and Cuba, is the very same body which, because of the veto imposed by the United States, has been unable even to condemn Israel, far less to impose sanctions against it, because of over 40 years' occupation of the territory of Palestine and other Arab States. Moreover, thanks to this anachronistic, unjust and anti-democratic privilege of the veto and its immoral use by the United States, it has not been possible for the Security Council to condemn the Israeli genocide against the heroic intifadah and the actions of the Zionist army which have brought about the deaths of members of the United Nations forces in Lebanon.

It would be vain, and above all extremely dangerous, to grant even minimum credibility to the motivations which the United States is pretending to for its leading role in the crisis. With their proverbial experience of manipulation, their diverse and considerable means of pressure, their capability for rapid military deployment, their demonstrated gift for political opportunism and their mass information media, United States diplomacy and the Pentagon are working with their Western counterparts to capitalize on the rightful indignation which Iraq's action against Kuwait aroused in the international community, and they question, find fault with and obstruct any attempt at a negotiated political solution which is not subordinate to their geopolitical interests, and hasten to derive maximum benefit from the situation created.

Of what will the United States not be capable in a region as vital as this one if it is not checked in time, when it showed not the least scruple in giving the international community a slap in the face by transforming a tiny State like Grenada and a country it had already practically occupied, like Panama, into a testing ground for its most sophisticated weapons?

How can the danger of the United States launching itself into a venture of this scope be doubted, when it was capable of planning and conducting an air raid on the family residence of the President of Libya, thus taking upon itself, and without the backing it now enjoys, the role of international executioner? Can other conclusions be drawn from the landing, just a few hours ago, of Yankee marines in Liberia?

I am addressing myself to you and to other Arab Heads of State at this time in the name of our shared responsibility as members of the Non-Aligned Movement and of the third world. In Cuba, we have experienced mortal dangers, including the threat of nuclear extermination, as in October 1962, and we are well schooled in seeing, foreseeing and taking a calm view of the most dramatic circumstances. This is thus not a matter of either of fear or of alarmism.

It happens, in the present case, that the threat reaches, for all peoples of the third world, with no possible exception, into the most sensitive aspects relating to our economies, our security and our independence.

The forces of regression and plunder will not shrink from the consequences of a military intervention in which Arabs and Muslims, so the United States hopes, would be divided and would shed each other's blood, causing wounds so deep that they would take decades to heal, and through their war would wreak incalculable havoc on the infrastructure and economies of the Arab countries that become the theatre of this war, which would take place not in Europe or the United States, but in the Arab-Persian Gulf. This in turn would lead to economic disaster throughout the third world, whose interests it is fitting to consider at this time. It is difficult to imagine the penury and depletion that might be brought upon the already battered economies of the underdeveloped countries by an outcome like the one whose outline is emerging, in which oil prices would be beyond the reach of most of them, lacking as they do fuel reserves and resources with which to buy them. It is impossible to overlook, Sir, the tragic irony that the United States and the allies marching alongside them on this inglorious crusade might achieve their ends - among them the consolidation of Zionist domination - with a minimum of human losses to the West. Their plans, hatched and rehearsed over an extended period, envisage a technical war, based on supremacy in weapons and technology. The casualties would be sustained above all by the Arab armies and population involved in the operation.

Lastly, let me share with you, Sir, the certainty which inspires me of the wisdom and courage of the leaders of the Arab nation and the vitality of its institutions.

Nothing and no one can replace this force, this authority and this morale in the immediate search for a negotiated solution to a conflict between two Arab peoples, one which entails, of course, the withdrawal of the Iraqi troops and the total restoration of Kuwait's sovereignty, without catastrophic wars, immolation of peoples and vast material destruction. Likewise, I believe that the Non-Aligned Movement and the United Nations system, for all their imperfections and limitations, can lend their backing to the united will of the Arab nation against intervention and aggression, and make it prevail.

The seriousness and dangers of the situation that has been created call for speedy and effective action by the most prestigious and renowned leaders in the Arab world. The experience of history affords abundant evidence that hegemonistic Powers like the United States are in the habit of imposing <u>faits accomplis</u> and unleashing processes that are very difficult to reverse.

With all the respect and consideration due to you, I urge you to promote within the shortest possible time, rising above differences that must now necessarily take second place, and with the urgency that the risks demand, that unity of views and action that I deem essential.

I beg you not to doubt, even for an instant, that in this just and noble undertaking you can count on the support of the vast majority of the countries in the international community and, as might be expected, on the modest co-operation of Cuba.

Fraternally,

(Signed) Fidel CASTRO RUZ
President of the Council of State
and of the Government of the
Republic of Cuba

UNITED
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General Assembly Security Council

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GENERAL ASSEMBLY
Forty-fifth session
Item 35 of the provisional agenda*
THE SITUATION IN THE MIDDLE EAST

SECURITY COUNCIL
Forty-fifth year

Letter dated 8 August 1990 from the Permanent Representative of Haiti to the United Nations addressed to the Secretary-General

I have the honour to transmit to you herewith the text of the communiqué issued on 8 August 1990 by the Government of Haiti concerning the conflict between Iraq and Kuwait.

I should be grateful if you would arrange for the text of this letter and its annex to be circulated as an official document of the General Assembly, under item 35 of the provisional agenda, and of the Security Council.

(Signed) Lyonel PAQUIN
Ambassador
Permanent Representative

* A/45/150 and Corr.1.

Annex

COMMUNIQUE ISSUED ON 8 AUGUST BY THE PROVISIONAL GOVERNMENT OF HAITI CONCERNING THE CONFLICT BETWEEN IRAQ AND KUWAIT

The Provisional Government of the Republic of Haiti condemns unreservedly the aggression against Kuwaiti sovereignty perpetrated on the night of 1 to 2 August 1990 by the Iraqi forces.

The Republic of Haiti denounces this brutal recourse to the use of force in relations between States. It appeals to the international community, and, in particular, to the competent forums of the United Nations, to do all in their power to secure the immediate withdrawal of the Iraqi forces of occupation and to promote the resumption of dialogue between the parties.

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GENERAL ASSEMBLY
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Item 35 of the provisional agenda*
THE SITUATION IN THE MIDDLE EAST

SECURITY COUNCIL
Forty-fifth year

Letter dated 8 August 1990 from the Permanent Representative of Chile to the United Nations addressed to the Secretary-General

I have the honour to enclose the text of the statement issued on 8 August 1990 by my Government with respect to the recent events in Kuwait:

Statement by the Government of Chile on the invasion of Kuwait issued in Santiago on 8 August 1990

By a communiqué distributed on 2 August, the Government of Chile made known its views regarding the invasion of Kuwait by Iraq's armed forces.

The Government of Chile has followed closely the developments in that region, and has lent its constant support to the efforts by the United Nations aimed at bringing about a solution to the difficult situation that has arisen.

Consequently, the Chilean authorities fully support resolution 661 (1990), adopted by the Security Council on 6 August 1990.

This resolution, aimed at safeguarding the principles of international law which are embodied in the Charter of the United Nations and to which Chile has traditionally subscribed, fully reflects the Government's feelings regarding this delicate matter.

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* A/45/150 and Corr.1.

Accordingly, a supreme decree has been drafted by which the Government enacts at the domestic level the measures agreed upon by the Security Council, including prohibition of the sale or supply of weapons or any other military equipment to Iraq and Kuwait.

The Government of Chile reiterates its desire that an end should be put to the occupation and that the sovereignty, independence and territorial integrity of Kuwait should be restored, in fulfilment of the clear norms of peaceful and civilized coexistence among nations.

I should be grateful if you would have the text of this statement circulated as an official document of the General Assembly, under item 35 of the provisional agenda, and of the Security Council.

(Signed) Juan SOMAVIA
Ambassador
Permanent Representative

UNITED
NATIONS

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Security Council

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S/21468
8 August 1990
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ORIGINAL: ARABIC/ENGLISH

LETTER DATED 7 AUGUST 1990 FROM THE PERMANENT REPRESENTATIVE OF OMAN TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

On instructions from my Government, I have the honour to enclose herewith the text of the Final Communiqué issued at the Twelfth Extraordinary Ministerial Council Meeting of the Gulf Co-operation Council, held at Jeddah, Saudi Arabia, on 7 August 1990, under the chairmanship of His Excellency Mr. Yousef Bin Alawi Bin Abdullah, Minister of State for Foreign Affairs of the Sultanate of Oman.

It would be highly appreciated if this letter and its annex were circulated as a document of the Security Council.

(Signed) Salim Bin Mohammed AL-KHUSSAIBY
Ambassador
Permanent Representative

Annex

Final Communiqué of the Twelfth Extraordinary Session of the Ministerial Council of the Gulf Co-operation Council, held at Jeddah on 7 August 1990

The Ministerial Council held its Twelfth Extraordinary Session at Jeddah on Tuesday, 7 August 1990 under the chairmanship of His Excellency Mr. Yousef Bin Alawi Bin Abdullah, Minister of State for Foreign Affairs of the Sultanate of Oman and with His Excellency Mr. Rashid Bin Abdullah al-Nu'aymi, Minister of State for Foreign Affairs of the United Arab Emirates, His Excellency Sheikh Mohammed Bin Mubarak Al Khalifa, Minister for Foreign Affairs of Bahrain, His Royal Highness Prince Saud al-Faisal, Minister for Foreign Affairs of the Kingdom of Saudi Arabia, His Excellency Mr. Mubarak Bin Ali al-Khatir, Minister for Foreign Affairs of the State of Qatar, and His Excellency Sheikh Sabah Al-Ahmad Al-Jaber Al Sabah, Deputy Prime Minister and Minister for Foreign Affairs of Kuwait, in attendance

The Council met in order to address the grave situation arising out of Iraq's occupation of Kuwait in flagrant violation of the sovereignty and independence of a State member of the Co-operation Council for the Arab States of the Gulf, of the League of Arab States and of the United Nations and in open breach of all international covenants and norms and of inter-Arab, Islamic and international law.

The Council reaffirmed the statement issued by it at its Eleventh Extraordinary Session, held at Cairo on 3 August 1990, the resolution adopted by the League of Arab States at its Extraordinary Session, held at Cairo on 3 August 1990, the communiqué issued by the Organization of the Islamic Conference and the United Nations resolutions condemning the Iraqi aggression against Kuwait, calling for the immediate withdrawal of Iraqi forces from Kuwait and their return to the positions in which they were located on 1 August 1990 and urging Iraq to abide by the relevant Arab, Islamic and international covenants and, in particular, by their stipulations with regard to the peaceful settlement of disputes, non-interference in the internal affairs of any State, respect for the sovereignty, independence and territorial integrity of all States and the non-use or threat of use of force by member States against the unity, territorial integrity and political independence of others.

The Council further placed on record its support for Kuwait and its endorsement of Kuwaiti legitimacy. It conveys its pride in the steadfast resistance of the fraternal people of Kuwait in the face of the brutal occupation, and it hails this people's fortitude, which testifies to the depth of its national feeling, to its cohesion and to its tenacity under the leadership of His Highness Sheikh Jaber Al-Ahmad Al-Jaber Al Sabah, Amir of Kuwait, and his legitimate Government.

The Council calls upon Iraq to withdraw its forces immediately in accordance with the resolutions of the League of Arab States, the communiqué of the Organization of the Islamic Conference and the resolutions of the United Nations. The Council affirms its rejection of this aggression and of any effects to which it may give rise and its non-recognition of its consequences.

In light of the grave situation created by the Iraqi occupation of Kuwait, the Council has studied the most efficacious means by which the situation can be addressed, and it has submitted its recommendations to the Supreme Council.

UNITED
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Security Council

Distr.
GENERAL

S/21469
8 August 1990

ORIGINAL: ENGLISH

LETTER DATED 8 AUGUST 1990 FROM THE PERMANENT REPRESENTATIVE OF KUWAIT TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

Upon instructions from my Government and in light of the declaration by Iraq of the purported annexation of Kuwait, I have the honour to request that the Security Council immediately resume the consideration of the item "the situation between Iraq and Kuwait".

(Signed) Mohammad A. ABULHASAN
Ambassador
Permanent Representative

90-18505 1717f (E)

UNITED
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Security Council

Distr.
GENERAL

S/21470
8 August 1990
ENGLISH
ORIGINAL: ARABIC

LETTER DATED 8 AUGUST 1990 FROM THE PERMANENT REPRESENTATIVES OF BAHRAIN, KUWAIT, OMAN, QATAR, SAUDI ARABIA AND THE UNITED ARAB EMIRATES TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

The undersigned States members of the Gulf Co-operation Council have the honour to request an immediate meeting of the Security Council to consider the situation between Iraq and Kuwait in the light of recent developments, most significantly the declaration by the Iraqi Revolution Command Council annexing the State of Kuwait to Iraq.

(Signed) Salim Bin Mohammed AL-KHUSSAIBY
Ambassador
Permanent Representative of Oman
Current Chairman of the Council

(Signed) Mohamed Abdul GAFFAR
Ambassador
Permanent Representative of Bahrain

(Signed) Hassan Ali Hussain AL-NI'MAH
Ambassador
Permanent Representative of Qatar

(Signed) Mohammed Hussein AL-SHAALI
Ambassador
Permanent Representative of the
United Arab Emirates

(Signed) Samir S. SHIHABI
Ambassador
Permanent Representative of Saudi
Arabia

(Signed) Mohammad A. ABULHASAN
Ambassador
Permanent Representative of Kuwait

UNITED
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Security Council

Distr.
GENERAL

S/21471
9 August 1990

ORIGINAL: ENGLISH

Draft resolution

The Security Council,

Recalling its resolutions 660 (1990) and 661 (1990),

Gravely alarmed by the declaration by Iraq of a "comprehensive and eternal merger" with Kuwait,

Demanding, once again, that Iraq withdraw immediately and unconditionally all its forces to the positions in which they were located on 1 August 1990,

Determined to bring the occupation of Kuwait by Iraq to an end and to restore the sovereignty, independence and territorial integrity of Kuwait,

Determined also to restore the authority of the legitimate Government of Kuwait,

1. Decides that annexation of Kuwait by Iraq under any form and whatever pretext has no legal validity, and is considered null and void;

2. Calls upon all States, international organizations and specialized agencies not to recognize that annexation, and to refrain from any action or dealing that might be interpreted as an indirect recognition of the annexation;

3. Further demands that Iraq rescind its actions purporting to annex Kuwait;

4. Decides to keep this item on its agenda and to continue its efforts to put an early end to the occupation.

90-18569 2386Z (E)

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General Assembly Security Council

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GENERAL

A/45/399
S/21472
9 August 1990
ENGLISH
ORIGINAL: ENGLISH/RUSSIAN

GENERAL ASSEMBLY
Forty-fifth session
Item 35 of the provisional agenda*
THE SITUATION IN THE MIDDLE EAST

SECURITY COUNCIL
Forty-fifth year

Letter dated 6 August 1990 from the representatives of the Union of Soviet Socialist Republics and the United States of America to the United Nations addressed to Secretary-General

We have the honour to transmit to you the text of the joint statement adopted in Moscow on 3 August 1990 during the meeting between the Secretary of State of the United States of America, James A. Baker III, and the Minister for Foreign Affairs of the Union of Soviet Socialist Republics, Eduard A. Shevardnadze (see annex).

We request you to circulate the text of the present letter and its annex as an official document of the General Assembly, under item 35 of the provisional agenda, and of the Security Council.

(Signed) Thomas R. PICKERING
Permanent Representative of
the United States of America
to the United Nations

(Signed) Valentin V. LOZINSKIY
Acting Permanent Representative
of the Union of Soviet Socialist
Republics to the United Nations

* A/45/150 and Corr.1.

ANNEX

Joint statement

The Union of Soviet Socialist Republics and the United States of America, as members of the United Nations Security Council, consider it important that the Council promptly and decisively condemn the brutal and illegal invasion of Kuwait by Iraqi military forces. The United States and the Soviet Union believe that now it is essential that the Security Council resolution be fully and immediately implemented. By its action, Iraq has shown its contempt for the most fundamental principles of the Charter of the United Nations and international law.

In response to this blatant transgression of the basic norms of civilized conduct, the United States and the Soviet Union have each taken a number of actions, including the Soviet suspension of arms deliveries and the American freezing of assets. The Soviet Union and the United States reiterate our call for the unconditional Iraqi withdrawal from Kuwait. The sovereignty, national independence, legitimate authorities and territorial integrity of the State of Kuwait must be completely restored and safeguarded. The United States and the Soviet Union believe the international community must not only condemn this action, but also take practical steps in response to it.

Today we take the unusual step of jointly calling upon the rest of the international community to join with us in an international cut-off of all arms supplies to Iraq. In addition, the Soviet Union and the United States call on regional organizations, especially the League of Arab States, all Arab Governments, as well as the Non-Aligned Movement and the Organization of the Islamic Conference to take all possible steps to ensure that the United Nations Security Council resolution is carried out. Governments that engage in blatant aggression must know that the international community cannot and will not acquiesce in nor facilitate aggression.

UNITED
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Security Council

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GENERAL

S/21473
9 August 1990

ORIGINAL: ENGLISH

LETTER DATED 9 AUGUST 1990 FROM THE CHARGE D'AFFAIRES A.I.
OF THE PERMANENT MISSION OF THE ISLAMIC REPUBLIC OF IRAN
TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

Upon instructions from my Government, I have the honour to enclose herewith the statement of the Ministry of Foreign Affairs of the Islamic Republic of Iran on the illegal annexation of Kuwait by Iraq.

It would be highly appreciated if this letter and its annex were circulated as a document of the Security Council.

(Signed) Mohammad Javad ZARIF
Ambassador
Deputy Permanent Representative

Annex

Statement by the Ministry of Foreign Affairs of the Islamic Republic of Iran

The announcement of illegal annexation of Kuwait by Iraq has exacerbated the crisis in the Persian Gulf region, the Middle East and the Islamic world, making the prospect of developments in this sensitive part of the world more ambiguous.

The Ministry of Foreign Affairs of the Islamic Republic of Iran, strongly rejecting this illegal action which is a flagrant violation of universally recognized norms and principles of international law, once again calls for the immediate and unconditional withdrawal of all Iraqi forces from the territory of Kuwait. It reiterates that such Iraqi behaviour will serve only the interests of hegemonic Powers and the usurper Zionist entity and must cease immediately.

The Islamic Republic of Iran considers null and void this illegal action which violates the inalienable right of nations to self-determination. The Islamic Republic of Iran, as the major Power in the Persian Gulf region, cannot accept any alteration in the political geography of the region.

UNITED
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Security Council

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GENERAL

S/21474
9 August 1990
ENGLISH
ORIGINAL: FRENCH

LETTER DATED 8 AUGUST 1990 FROM THE CHARGE D'AFFAIRES A.I. OF THE PERMANENT MISSION OF CHAD TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

The Permanent Mission of Libya issued on 6 August 1990 a statement (S/21442) designed to distort, as usual, the nature of the problem between the two countries, namely Chad and Libya.

This applies in particular to the document bearing the symbol S/21442, which states that Libya has no intention of engaging in aggression against Chad and that, in any case, the occurrences on the Chadian-Sudanese borders were brought about by Chadian secessionists and were even an extension of the civil war in Chad.

As is evident, this is the customary language used by Libyan leaders and, therefore, a diversionary tactic.

The international community and Africa in particular know that there is no longer a civil war in Chad. National reconciliation has been brought about. The stunning victories by the Chadian national armed forces in 1987 in northern Chad against the Libyan occupation army are the logical result of the development of the political situation in Chad.

The Libyan statement is therefore designed to revive an old refrain that Tripoli holds very dear: that of the intra-Chadian conflict, which until the last few years enabled Tripoli to conceal the real and deep-seated cause of the war between Chad and Libya.

We reaffirm once again that the violent fighting which periodically takes place on the Chadian-Sudanese border is caused by the Islamic Legion (a creation of the Libyan régime), which operates in the region of Darfur-Sudan, where the régime has pledged total allegiance to Tripoli.

At the current time, Libya and the Sudan are indeed preparing to commit further aggression against Chad. For this reason, the Chadian Government issued the communiqué dated 31 July 1990 in order to draw the attention of the international community to the threat facing Chad.

Therefore, it is the task of the Security Council, the guarantor of peace in the world, to carry out its responsibilities by, inter alia, calling upon the Libyan-Sudanese coalition to respect the territorial integrity, independence and sovereignty of Chad.

I should be grateful if you would have this letter circulated as a document of the Security Council and placed in the Chad/Libya dossier which remains before the Council.

(Signed) Ahmat Abderaman HAGGAR
Chargé d'affaires a.i.

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Security Council

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GENERAL

S/21475
9 August 1990
ENGLISH
ORIGINAL: SPANISH

LETTER DATED 8 AUGUST 1990 FROM THE CHARGE D'AFFAIRES OF THE PERMANENT MISSION OF ARGENTINA TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

I have the honour to transmit to you herewith the text of a press communiqué issued by the Argentine Government on 7 August 1990 in connection with Security Council resolution 661 (1990).

I should be grateful if you would have this letter and its annex circulated as an official document of the Security Council.

(Signed) Alfredo CHIARADIA
Deputy Permanent Representative
to the United Nations
Chargé d'affaires a.i.

Annex

Press release issued by the Government of Argentina
on 7 August 1990

"The Ministry for Foreign Affairs and Religion has taken note of Security Council resolution 661 (1990) which, on the basis of Chapter VII of the Charter of the United Nations, imposes sanctions on the Republic of Iraq for failure to comply with its previous resolution which, inter alia, demanded the immediate and unconditional withdrawal of the Iraqi forces which invaded and occupied the territory of Kuwait.

"In this regard, the Ministry states that the Argentine Government will comply strictly and immediately with the decision, in all its terms, thus adopted by the United Nations body which bears the main responsibility for the maintenance of international peace and security."